

# EXHIBIT A

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

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UNITED STATES, et al., : Civil Action No.:  
 : 1:23-cv-108  
 :  
Plaintiffs, :  
 :  
versus :  
 :  
 : Friday, September 15, 2023  
 : Alexandria, Virginia  
GOOGLE LLC, :  
 : Pages 1-80  
 :  
Defendant. :  
-----x

The above-entitled motions hearing was heard before  
the Honorable John F. Anderson, United States Magistrate  
Judge. This proceeding commenced at 10:50 a.m.

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(PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING,  
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1 part of what Your Honor ruled on last week, which is that --

2 THE COURT: Yes or no --

3 MS. CLEMONS: -- there was a very specific  
4 request.

5 THE COURT: -- have you given them that raw data?

6 MS. CLEMONS: No, because it's work product.

7 THE COURT: Have you given your experts that raw  
8 data?

9 MS. CLEMONS: No, because it's work product, Your  
10 Honor.

11 THE COURT: Well --

12 MS. CLEMONS: It was for the purposes of  
13 determining whether and how the claims should be brought on  
14 behalf of Navy.

15 THE COURT: All right. I want that data delivered  
16 to my chambers before the end of the day today. I'll look  
17 at it and see whether that raw data should be produced;  
18 okay?

19 MS. CLEMONS: Okay. To be clear, Your Honor, it  
20 is not raw data. It is -- my understanding --

21 THE COURT: I'll see what it is --

22 MS. CLEMONS: It's a request from counsel.

23 THE COURT: -- and I'll make a determination.

24 MS. CLEMONS: Okay.

25 THE COURT: I thought I was clear in my ruling.

1 And, you know, I've got to tell you, the  
2 government's claim for damages is in jeopardy in this case  
3 given their lack of responsiveness in discovery. And, you  
4 know, I want you to understand the seriousness of the way  
5 that I'm concerned about your responses to these  
6 damages-related questions.

7 A defendant in any case is entitled to know what  
8 the plaintiff is asking for and how they need to supplement  
9 it at a later time, but at least needs to know, in some  
10 respects, as to how the damages are being calculated, what  
11 the elements are, what you intend to be going after, and  
12 it's not going to come in an expert report and they then  
13 have 30 days from when they get your expert report to get  
14 their expert, to get everything lined up, to know how to  
15 respond to that. It's not fair. And I want to make sure  
16 this case is tried on a fair basis, and hiding the ball as  
17 to how you're going to calculate the damages or what the  
18 damages are, you know, what the elements are going to be,  
19 you know, if the model isn't complete, the model isn't  
20 complete. But you need to explain to them that you're  
21 working on a model that's going to be doing X, Y and Z, and  
22 that when you get the information, this is going to be it,  
23 and you can supplement it at a later time. But the idea  
24 that you're going to wait until an expert report gets served  
25 to tell them what you're seeking in this case and how it's

1     calculated and how it all came out isn't fair.

2                 So I'm going to require you to provide  
3     supplemental responses to Interrogatories 4, 9, 14, 17.  
4     I'll look at this expert data. I assume what you have  
5     provided to the government -- or provided to the defendant,  
6     I'm going to say, if you have not provided them that  
7     information as of the close of discovery, you cannot use it.  
8     Is that fair or not fair?

9                 MS. CLEMONS: Absolutely fair, Your Honor, and we  
10     don't intend to use it because it was an initial  
11     determination for very specific information requested by  
12     counsel to assess claims, and then we sought actual  
13     discovery.

14                THE COURT: I'm talking about in broad range. If  
15     you haven't provided them with the documents upon which you  
16     rely to support your claim for damages in this case, you're  
17     not going to be able to use it.

18                MS. CLEMONS: Yes, Your Honor.

19                THE COURT: Other than --

20                MS. CLEMONS: We completely agree.

21                THE COURT: -- information that you're getting  
22     from Google. I'll carve that out, obviously.

23                But, I mean, it's only fair that in the fact  
24     discovery part of this case that you provide them with the  
25     information that you intend to rely upon in order to claim

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I certify that the foregoing is a true and accurate  
transcription of my stenographic notes.

Stephanie Austin

Stephanie M. Austin, RPR, CRR